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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

CANEISHA HOWELL-LOVAS, Plaintiff and Appellant, v. JOLIE NAGEL et al., Defendants and Respondents.	G044455 (Super. Ct. Nos. 30-2008-00088258, 30-2008-00090474 & 30-2009-001195116) O P I N I O N

Appeals from a judgment and multiple orders of the Superior Court of Orange County, Kazuharu Makino, Judge. Judgment and orders affirmed.

Caneisha Howell-Lovas, in pro. per., for Plaintiff and Appellant.

No appearance for Defendants and Respondents.

* * *

Having been given multiple fee waivers, and proceeding in propria persona, Caneisha Howell-Lovas (Plaintiff) has filed no less than six separate notices of appeal involving her action against Renee Gibson, Jolie Nagel and Anjalique Gibson for defamation and related causes of action. Two of the notices were filed November 15, 2010, three of them were filed December 10, 2010, and the last one was filed on December 16, 2010. The six notices of appeal have all been consolidated in this court under docket number G044455. One of the December 10, 2010 notices of appeal designates a final defense judgment, filed October 18, 2010, as the matter from which the appeal is taken. Other notices of appeal separately designate about 10 separate pretrial orders.

The majority of the pretrial orders listed in the notice of appeal involve discovery matters. The most significant of these discovery orders is one assessing sanctions of $2,100 against Plaintiff. (Cf. Code Civ. Proc., § 904.1, subd. (a)(12) [sanction orders directing payment in excess of $5,000 immediately appealable].) Because none of the orders was immediately appealable in its own right, they may all be reviewed in this appeal from the final judgment of October 18, 2010. (Code Civ. Proc., § 906.)

However, Plaintiff failed to support all her arguments concerning the matters listed in her various notices of appeal, including her attack on the final judgment filed October 18, 2010 with an adequate record. In each case she has either (1) not supplied a sufficient record for review (see *Hernandez v. California Hospital Medical Center* (2000) 78 Cal.App.4th 498, 502 ["Failure to provide an adequate record on an issue requires that the issue be resolved against plaintiff."]) or (2) failed to support the arguments in her opening brief with record references sufficient to allow this court to ascertain whether any prejudicial error occurred at the trial level. (See *Evans v. Centerstone Development Co.* (2005) 134 Cal.App.4th 151, 166; *Byars v. SCME Mortgage Bankers, Inc.* (2003) 109 Cal.App.4th 1134, 1140-1141; *Mansell v. Board of*

Administration (1994) 30 Cal.App.4th 539, 545; *Troensegaard v. Silvercrest Industries, Inc.* (1985) 175 Cal.App.3d 218, 229.) Record references to the notices of appeal themselves, or to pages of the Superior Court's register of actions, are insufficient to show prejudicial error by the trial court.

The *closest* that Plaintiff comes to providing both an adequate record and giving sufficient record references in her opening brief is her argument that the trial court erred in denying her motion to strike the answer of defendant Jolie Nagel. Plaintiff has at least provided a copy of her motion and the minute order reflecting the court's decision.

Yet even here, the record is inadequate. Statutory and case law establish that review of an order on a motion to strike is for abuse of discretion. (See Code Civ. Proc., § 436 [using word "may" to describe power to strike pleadings, thus indicating discretionary choice]; *Pacific Gas and Electric Co. v. Superior Court* (2006) 144 Cal.App.4th 19, 23 ["A motion to strike a pleading under Code of Civil Procedure section 436 is reviewed for abuse of discretion."].) If the order is within the bounds of reason it must be upheld. (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 957.) Concomitantly, trial court judgments are presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.

Thus, as this appeal comes to us, we must begin with the presumption that the May 21, 2010 order denying Plaintiff's motion to strike was within the bounds of reason. Plaintiff, however, has failed to provide a reporter's transcript of the May 21, 2010 hearing which resulted in the trial judge denying her motion to strike. Without such a transcript, we have no clue as to the trial judge's thought processes or how he confronted such arguments as may have been presented to him by Plaintiff. Thus, on this record, this court cannot say that the order was *outside* the bounds of reason.

However, we can say this: The partial record which Plaintiff has supplied shows there was no abuse of discretion on the trial judge's part in denying Plaintiff's motion to strike.

Here is what the record, such as it is, shows: Plaintiff is married to Desmond Lovas. Plaintiff filed a complaint against Renee Gibson, who she claimed was her husband's former girlfriend. The complaint alleged, among other things, that Gibson stated in a Myspace posting that Plaintiff was stalking Gibson. Plaintiff also named in her complaint a friend of Gibson's, Jolie Nagel, for having made the statement to an "unknown number of people" that Plaintiff was harassing Gibson.

Nagel answered the complaint. She attached to her answer various documents, including (1) a police incident report showing Plaintiff had been arrested for domestic violence against her former husband in 2001, and (2) a petition for a protective order sought by her former husband in 2006. The petition alleged that Plaintiff was going to fly to the State of Washington where her ex-husband lived, and would collect two of their children (a three-year old and a one-year old), and if the ex-husband tried to prevent it, Plaintiff would "kill" him.

Plaintiff filed a motion to strike Nagel's answer. The gravamen of the motion was that Plaintiff was a respectable person, and that Nagel's answer itself had prejudiced and defamed Plaintiff.

The motion to strike was denied May 21, 2010. On appeal now, Plaintiff's basic point is that the documents included in Nagel's answer were irrelevant, because Nagel was being sued for various defamations in 2008, yet the documents involved allegations from documents dated 2001 and 2006. Plaintiff also asserts that the answer did not comply with various local rules. And she further claims the documents should have been redacted to eliminate what she calls "minor identifiers."

No abuse of discretion is shown. The trial judge's decision not to strike Nagel's answer was within the bounds of reason. First, Plaintiff showed no necessary prejudice in terms of the proper confines of *this* litigation from the documents. A pleading is not evidence. (*Soderstedt v. CBIZ Southern California, LLC* (2011) 197 Cal.App.4th 133, 154 ["But pleadings are allegations, not evidence, and do not suffice to

satisfy a party's evidentiary burden."].) If indeed the documents attached to Nagel's answer proved to be irrelevant to any of the issues to be tried, they could be readily excluded from evidence when the time came. Moreover, if there was good cause to justify sealing the already-public records attached to Nagel's answer, Plaintiff would have had the opportunity to show that good cause in a proper application to the court. (See Cal. Rules of Court, rule 2.551(b)(1).) Finally, there is a well-established judicial preference that causes be decided on the merits. (*Gutierrez v. G & M Oil Co., Inc.* (2010) 184 Cal.App.4th 551, 566.) Given that preference, had the trial judge done what Plaintiff now asserts the trial judge should have done, it truly would have been an abuse of discretion.

The judgment of October 18, 2010 and all orders appealed from in the six notices of appeal filed in this matter are affirmed. Because no respondent's brief was filed, Plaintiff will bear her own costs on appeal.

RYLAARSDAM, ACTING P. J.

WE CONCUR:

BEDSWORTH, J.

ARONSON, J.